

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

EXPRESS SCRIPTS, INC., et al.,

*Plaintiffs,*

v.

THE FEDERAL TRADE COMMISSION, et  
al.,

*Defendants.*

Case No. 4:24-cv-1549-MTS

**NOTICE OF ORDERS IN ADMINISTRATIVE PROCEEDING**

Defendants respectfully submit this Notice to inform the Court of three orders, and accompanying statements, issued in the administrative proceedings before a Federal Trade Commission Administrative Law Judge in *In re Caremark Rx, L.L.C., et al.*, Docket No. 9437 (the “Administrative Proceeding”). Plaintiffs in this action—the Respondents in the Administrative Proceeding—collaterally attack that proceeding.

As Defendants noted in their opposition to Plaintiffs’ motion for a preliminary injunction, Respondents in the Administrative Proceeding moved on October 8, 2024, to disqualify the three non-recused Federal Trade Commissioners based on allegations of prejudgment and bias. *See* ECF No. 44 at 21–22. While those motions had not been resolved at the time Defendants filed their opposition, the Commission<sup>1</sup> subsequently released three orders denying those motions on

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<sup>1</sup> Neither the recused Commissioners nor the Commissioner subject to each disqualification motion participated in the Commission’s resolution of that particular disqualification motion. Accordingly, the motion to disqualify then-Chair Khan was resolved by Commissioners Slaughter and Bedoya; the motion to disqualify Commissioner Slaughter was resolved by then-Chair Khan and Commissioner Bedoya; and the motion to disqualify Commissioner Bedoya was resolved by then-Chair Khan and Commissioner Slaughter. While not relevant to the FTC’s disposition of the disqualification motions, Defendants further notify the Court that, as of January 20, 2025, then-Commissioner Andrew N. Ferguson was designated as FTC chair. *See Andrew N. Ferguson Takes Over as FTC Chairman*, FTC (Jan.

January 14, 2025. *See* Exhibit A (Order Denying Motions to Disqualify Chair Khan, *In re Caremark Rx, LLC, et al.*, Docket No. 9437 (F.T.C. Jan. 14, 2025)); Exhibit B (Order Denying Motions to Disqualify Commissioner Slaughter, *In re Caremark Rx, LLC, et al.*, Docket No. 9437 (F.T.C. Jan. 14, 2025)); Exhibit C (Order Denying Motions to Disqualify Commissioner Bedoya, *In re Caremark Rx, LLC, et al.*, Docket No. 9437 (F.T.C. Jan. 14, 2025)). Each order was accompanied by a statement by the Commissioner who was the subject of the relevant disqualification motion. *See* Exhibit D (Statement of Chair Lina M. Khan Regarding the Petitions for Recusal from Involvement in the Matter of Insulin: Caremark Rx et al., *In re Caremark Rx, LLC, et al.*, Docket No. 9437 (F.T.C. Jan. 10, 2025)); Exhibit E (Statement of Commissioner Rebecca Kelly Slaughter Regarding the Petitions for Recusal from Involvement in the Matter of Insulin: Caremark Rx et al., *In re Caremark Rx, LLC, et al.*, Docket No. 9437 (F.T.C. Dec. 18, 2024)); Exhibit F (Statement of Commissioner Alvaro M. Bedoya Regarding Petitions for Recusal from Involvement in the Matter of Insulin Commission File No. D09437, Docket No. 9437 (F.T.C. Jan. 10, 2025)).

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22, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/01/andrew-n-ferguson-takes-over-ftc-chairman>. Chair Ferguson remains recused from the Administrative Proceeding.

Dated: January 24, 2025

Respectfully submitted,

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